

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
TENNESSEE BUSINESS ENTERPRISES**

**CHAPTER 1240-6-2
LICENSE**

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1240-6-2-.01 ISSUANCE.

The Agency shall issue licenses to blind persons who are in need of employment and who are determined to be:

- (1) A citizen of the United States; and
- (2) Legally blind as defined in 34 CFR 395.1 (c)(1) and (2); and
- (3) At least eighteen (18) years of age; and
- (4) Qualified to manage a vending facility as evidenced by having successfully completed entry level training, as well as successfully completing On-the-Job Training.

Authority: TCA §§4-5-201 et seq., 14-14-404, 71-1-105(12), 71-4-604(c); 34 CFR 395. I(c) and 34 CFR §395.4. **Administrative History:** Original rule filed August 30, 1978; effective November 12, 1978. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed May 15, 1984, effective August 14, 1984. Amendment filed March 10, 1989; effective April 24, 1989.

1240-6-2-.02 INSTRUMENT OF FACILITY ASSIGNMENT.

- (1) On the first day of business, the Agency's Representative and the manager shall execute a document known as the "instrument of facility assignment", which designates the assignment as temporary or permanent and which clearly defines the responsibilities of the Agency and those of the manager to assure the effective and efficient operation of the facility to which the manager has been assigned.
- (2) In order to ensure, insofar as possible, the additional awareness of the manager of his/her duties and obligations, there shall be three documents attached to and made a part of the "instrument of facility assignment". These are designated as:
 - (a) Occupancy Permit Agreement:
 - (b) Equipment Inventory Record; and
 - (c) Merchandise Inventory Record.
- (3) The attachments, in paragraph (2), provide the manager with the knowledge of all requirements which must be met, and his/her particular responsibilities as they relate to the facility's operation.

Authority: TCA §§4-5-201 et seq., 14-628, 14-1-105(14), 14-14-404, 71-1-105(12), 71-4-603, 71-4-604(c); 34 CFR 395.7 (a)-(c), 395.16, 32 CFR §260.1, 45 CFR 1369. 7(b). **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed June 9, 1981; effective August 18, 1981. Amendment filed

(Rule 1240-6-2-.02 continued)

May 25, 1983; effective June 24, 1983. Amendment filed March 10, 1989; effective April 24, 1989. Amendment filed April 27, 1998; effective August 28, 1998.

1240-6-2-.03 TERMINATION OF LICENSE.

- (1) The Agency shall issue licenses for an indefinite period, but subject to termination if, after affording the manager an opportunity for a full evidentiary hearing pursuant to the procedures specified in writing, the Agency finds that the vending facility is not being operated in accordance with:
 - (a) The rules and regulations governing the program.
 - (b) The terms and conditions of the permit.
 - (c) The terms and conditions of the operating agreement.
 - (d) Policies and procedures as specified in the Tennessee Business Enterprises Operations Manual.
 - (e) State law, the violation of which is, or reasonably may, result in financial or physical harm to the customers of the facility or other persons, the Department or the manager.
 - (f) Regulations of other agencies of the State of Tennessee which have regulatory authority directly related to the operation of a vending facility.

The Agency will give thirty (30) days notice in advance of terminating a manager's license, and such advance notice shall be given only after the expiration of a thirty (30) day probationary period, except as provided in 1240-6-6-.03(2)

- (2) Revocation of License for Non-Disciplinary Reasons.
 - (a) The Agency must revoke the manager's license if:
 1. The manager resigns from the program; or
 2. The manager has an extended illness with a medically documented diagnosis of the manager's incapacity to operate a facility; provided that the Agency has made available to the manager transfer eligibility under 1240-6-1-.06(3), and that eligibility has expired; or
 3. The manager loses his/her certification(s) and fails to gain acceptance within the allotted time to attend the next entry-level training class, or
 4. The manager fails to meet the definition of blindness as set forth in 1240-6-1-02(5) and 34 CFR §395.1(c).
- (3) Removal of Manager for Administrative or Disciplinary Reasons.
 - (a) When a manager is operating a facility on property which is not protected under federal or State law with respect to priority or preference extended to the Agency, the Agency may upon the request of property management, be required to remove the manager from the facility, but the Agency is bound to proceed in accordance with the terms and conditions of the permit. If the removal is a result of a violation(s) as defined in paragraph (1) of this section, the Agency shall take disciplinary action. If the removal is not a result of inappropriate behavior, the Agency shall place the manager on transfer status or demotion status as the circumstances require.

Authority: TCA §§4-5-201 et seq., 71-1-105(12), 71-4-603, 71-4-604(c), 14-628; 14-14-404(c); 34 CFR §§395.4 and 395.7(b), 34 CFR. 395; 34 CFR 395.1(c), (7), (b); 45 CFR 136.97(b) and 395.7(b). **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed November 8, 1979; effective

(Rule 1240-6-2-.03 continued)

January 29, 1980. Amendment filed June 9, 1981; effective August 18, 1981. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed December 6, 1983; effective January 5, 1984. Amendment filed December 11, 1986; effective January 25, 1987. Amendment filed March 10, 1989, effective April 24, 1989. Amendment filed April 27, 1998; effective August 28, 1998.

1240-6-2-.04 REPEALED.

Authority: *TCA §§4-5-201 et seq., 71-1-105(12), and 71-4-604(c); 34 CFR 395.7(b).* **Administrative History:** *Original rule filed May 25, 1983; effective June 24, 1983. Amendment filed March 10, 1989; effective June 24, 1989. Amendment filed April 27, 1998, effective August 28, 1998.*

1240-6-2-.05 REPEALED.

Authority: *TCA §§14-14-404(c); 34 CFR 395.7(b).* **Administrative History:** *Original rule filed May 25, 1983; effective June 24, 1983. Repeal filed April 13, 1984; effective May 13, 1984.*